

AMENDMENT
S/N:09/460,107, FILED 12/13/99

PATENT
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REMARKS

The above-reference Office Action has been carefully reviewed and reconsideration thereof is respectfully requested.

The above removes the word "process" from the title and inserts therefor "apparatus". It is believed that the substitution results in a titled that more accurately describes the claimed invention.

The Examiner, in Paragraph 2, states that an application must contain a specific reference to prior applications. Yet, in Paragraph 5, the Examiner objects to the disclosure because certain informalities in the specific reference provided. This seems to be a contradiction. An explanation is respectfully requested.

In Paragraph 4, the Examiner requires that a new oath or declaration is required. A Supplemental Amendment will be provided shortly which contains a declaration having the required information.

In Paragraph 5, the Examiner advises deletion of certain matter. The matter is still unavailable, but if a Notice of Allowance in this application is issued before that information becomes available, the Examiner is authorized to delete that material by Examiner's Amendment at that time.

Claims 12-15, 17-23, and 27 have been rejected under 35 USC 102(b) as being anticipated by Danssaert et al. Applicant respectfully traverses this ground of rejection.

Among other differences, it is noted that the device/process of Danssaert et al. requires that all three heat transfer stations are required for one amplification step.

Applicant's claimed invention is directed to a PCR processing apparatus which provides one amplification at each individual heat transfer step. Thus, Danssaert fails to anticipate Applicant's claimed invention.

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"Anticipated requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." (Emphasis added.) *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F2d 1452, 1458, 221 USPQ 481, 485 (CAFC 1984). See, *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 5 USPQ 2d 1434 (CAFC 1984).

Since the base claim is obviously not anticipated by the reference, the limitations of the claims depending therefrom, rejected on the same basis, have not been addressed. "When an independent claim is not anticipated, the claims depending therefrom are likewise not anticipated." *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F2d 1440, 221 USPQ 385 (CAFC 1988), *cert dismissed*, 468 US 1228 (1984).

Claims 12-17, 19, 21-23, and 27 have been rejected under 35 USC 102(b) as being anticipated by Mitsuhashi et al. Applicant respectfully traverses this ground of rejection.

Among other differences, it is noted that Applicants base claim, Claim 12, includes the limitation that patterns of wells are indexed on a continuous basis through a plurality of individual heat transfer stations, at each of which stations the patterns are subject to a unique temperature change resulting in one amplification step. The Examiner is respectfully reminded that it is well settled that claims are to be interpreted in light of the entire disclosure. It is respectfully submitted that such does not admit of the phrase "could be considered" as used several times by the Examiner. See the above court citations.

Claims 24-26 and 28 are indicated as being allowable if written to include the limitations of the base claim and any intervening claims. Claim 29 is Claim 24 so rewritten, Claim 30 is Claim 25 so rewritten, and Claim 32 is Claim 28 so rewritten. Claim 31 depends from Claim 30 and contains the limitations of Claim 26.

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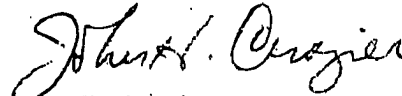
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In view of the above amendments and remarks, it is respectfully submitted that the claims in the application, Claims 12-31, are allowable and early action in that regard is respectfully requested.

Should the Examiner have any questions as to the allowability of the claims or any suggestions with respect thereto, the privilege of a telephone conference with the Examiner is respectfully requested.

Date: November 23, 2001.

Respectfully submitted,



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